Misc. Criminal Writ Petition No.74 of 2001
(Old No. 115/1997)

State of U.P. ..... Appellant

Vs.

1. Jhapa Devi widow of Udai Singh
2. Mangal Singh alias Magani .... Respondents

.....

Hon.A.A.Desai,C.J.
Hon.M.C.Jain,J.

The respondents were prosecuted for the offence punishable u/s 302,I.P.C. for having committed murder of newly born baby of respondent no.1.

According to the prosecution, respondent no.1 was a widow and she had illicit relation with respondent no.2. out of this relationship, a baby was born. To avoid condemnation from the society, the newly born baby was buried. The prosecution during trial cited several witnesses. However, none of them had been examined. Even the medical examination of respondent no.1 was not conducted and there is no evidence on record to indicate that she delivered a child. In absence of substantive evidence, learned Sessions Judge recorded finding of acquittal. No ground is made out on hearing learned prosecutor to warrant interference in the finding of acquittal. The appeal is without any merit. Moreover, it is delayed by 70 days. No cogent reason has been furnished for condonation. We reject the application for condonation and dismiss the appeal.

(M.C.Jain,J.) **(A.A.Desai,C.J.)**

Dt.21.05.2001
A